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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/840,230

04/24/2001

Stuart Gerald Stubblebine

2455-4230US3

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ATTN: Patent Docketing  
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Bedminster, NJ 07921

EXAMINER

ZEE, EDWARD

ART UNIT

PAPER NUMBER

2435

MAIL DATE

DELIVERY MODE

07/20/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/840,230	<b>Applicant(s)</b> STUBBLEBINE, STUART GERALD	
	<b>Examiner</b> EDWARD ZEE	<b>Art Unit</b> 2435	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is in response to the amendments filed on 03/09/09. Claim 56 is pending and has been considered below.

#### ***Terminal Disclaimer***

2. The terminal disclaimer filed on **03/09/09** disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of **U.S. Patent No. 6,216,231** has been received and is currently pending approval. No further action is required of the Applicant at this time regarding this particular terminal disclaimer.

#### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. **Claim 56** is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3, 5-10, 12-17, 20, 24 and 32-42 of **U.S. Patent No. 6,216,231**.

Although the conflicting claims are not identical, they are not patentably distinct from each other because both inventions are drawn towards a similar technique of enforcing revocation in a distributed system which explicitly employs an identification certificate(*ie. initial assertion, initial statement, etc.*) that includes a freshness constraint, which is used by the authorities(*ie. distinguished principals, etc.*), to confirm validity. Thus, the Examiner respectfully submits that both inventions appear to disclose variants that would have been obvious to one of ordinary skill in the art at the time of invention.

5. **Claim 56** is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of **U.S. Patent No. 6,256,741**. Although the conflicting claims are not identical, they are not patentably distinct from each other because both inventions are drawn towards a similar technique of enforcing revocation in a distributed system which explicitly employs an identification certificate(*ie. authentic statements, initial assertion, authoritative assertion, certificate, initial statement, etc.*) that includes a freshness constraint, which is used by the authorities(*ie. trusted intermediaries, distinguished principals, authorities, etc.*), to confirm validity. Thus, the Examiner respectfully submits that both inventions appear to disclose variants that would have been obvious to one of ordinary skill in the art at the time of invention.

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***Claim Objections***

6. The amendments filed on 03/09/09 have been considered and are effective at overcoming the previous objections, and thus have been withdrawn.

***Claim Rejections - 35 USC § 112***

7. The amendments filed on 03/09/09 have been considered and are effective at overcoming the previous rejections, and thus have been withdrawn.

***Allowable Subject Matter***

8. Claim 56 would be allowable if an additional timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) is submitted in response to the second double patenting rejection in light of U.S. Patent No. 6,256,741.

***Response to Arguments***

9. Applicant's arguments filed 03/09/09 have been fully considered but they are not persuasive.

10. The Examiner respectfully submits that the Applicant may have inadvertently failed to respond to the double patenting rejection in view of U.S. Patent No. 6,256,741, either by filing an additional terminal disclaimer and/or expressly traversing the rejection(s). The Applicant is kindly requested to clarify such issue(s) before the instant application may pass to issuance.

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***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWARD ZEE whose telephone number is (571)270-1686. The examiner can normally be reached on Monday through Thursday 9:00AM-5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EZ

July 16, 2009

/Kimyen Vu/

Supervisory Patent Examiner, Art Unit 2435